WORKING WITH IMMIGRANTS IN PROTECTIVE SERVICES

Protective Services Division
Annual Training
Spring 2009
Overview

New Mexico Population
Status Classifications
Protective Services and Immigration
Effective Practice
- Understanding Culture/Language
- Understanding Law
- Working with Consulate
- Immigration Relief-SIJS
New Mexico Population

- New Mexico’s total population = 1,954,599
- Total Foreign born population = 197,251, or 10.1%
- Ethnic composition of foreign born in New Mexico:
  - 78% born in Latin America
  - 10.5% born in Asia
  - 8.6% born in Europe
  - <1% born in Africa
## Status Classifications

<table>
<thead>
<tr>
<th>Citizen</th>
<th>Non-Citizen</th>
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<tbody>
<tr>
<td>U.S. born citizen</td>
<td>Legal Permanent Resident</td>
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<tr>
<td>Naturalized citizen</td>
<td>Refugee</td>
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<td></td>
<td>Asylee</td>
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<td></td>
<td>Temporary Legal Resident</td>
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<tr>
<td></td>
<td>Undocumented Immigrant</td>
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Impact of Legal Status on Families

• Can present challenges to family safety and well being and child permanency.

• Structures the immigration experience

• Different statuses carry varied entitlements to benefits, services, and legal rights.
Undocumented Immigrants

In the U.S.
- Almost half of all entries into the US are unauthorized

In New Mexico
- There are an estimated 40,000 to 55,000 (2-3% of population) undocumented immigrants in New Mexico
  - 17,000-24,000 undocumented families
Mixed Status Families

In the U.S.

- Nearly one in ten U.S. families with children is a mixed immigration status family (i.e., families with at least one non-citizen parent and one child who is a citizen).

In New Mexico

- 20% of children in NM live in mixed-status families
  - 3% of children in New Mexico are foreign born
  - 85% of children in mixed-status families in NM have at least one parent from Latin America
WHAT DOES IMMIGRATION HAVE TO DO WITH CHILD WELFARE?

The growth of the immigrant population in recent decades demands that we examine and adapt our practices in child welfare to ensure effective responses to the specific needs of this population.
Protective Services & Immigration Issues

- We are not a law enforcement agency.
- We are not required to share information with federal immigration authorities.
- We are a state agency bound by laws of confidentiality—immigration status is confidential.
- We serve children and families in New Mexico regardless of national origin or immigration status—our primary goal is to strengthen families and to keep children safe.
Protective Services Responsibility in Immigration

- Understand the impact migration and acculturation have on each family and how experiences have contributed to child welfare involvement.

- Understand the complex tangle of relevant legal and policy requirements concerning immigrant populations.

  - Discern when we should seek legal and clinical consultation to effectively serve population.
Assessing

- It is important for us to collect information about the family.
- We need to know when children or parents are non-citizens to:
  1. Assist in determining eligibility for certain benefits and programs
  2. Comply with requirements for consular notification
  3. Best utilize all available resources to serve children and families
How to find out citizenship

- Ask the questions:
  WHERE WERE YOU BORN?
  WHERE ARE YOU FROM?

- Not:
  What’s your legal status?
  Are you a U.S. citizen?
  What’s your nationality?
Documenting

FACTS

Case Maintenance

Person Management*

Place of Birth Icon

Write in town/city/state and country

*Enter for children and PARENTS
Critical Steps in Working with Families

- Language Determination
- Interpretation/Translation Services
- Information Gathering
- Understanding Vulnerabilities
- Understanding Immigration Status
- Notification and involvement of consulate and extended family members
- Service plan and intervention
Language Mandates

- Title VI of the Civil Rights Act
- National Standards for Culturally and Linguistically Appropriate Services
Immigration Mandates

- Consular Notification
- Memorandum of Understanding with Mexican Consulate
- VAWA
- U & T Visa
- Special Immigrant Juvenile Status
Consular Relations: Basis in International Law

- The Vienna Convention on Consular Relations (1967)
- The Bilateral Convention between the U.S. and the United Mexican States, Article VI
Consular Notification

“When given custody of a foreign national child or of a US citizen whose only parent or both parents are foreign nationals, PS shall notify the foreign consulate of the child or his or her parent in writing without delay after obtaining custody.”

- Fax to Consulate using standardized form, copy to immigration liaison
- Document in FACTS and maintain copy in the child’s case file
MEMORANDUM OF UNDERSTANDING
between the Mexican Consulates in El Paso and Albuquerque and CYFD regarding consular functions in custody proceedings involving Mexican minors as well as mutual collaboration
Key Provisions of MOU

- Determination of Mexican nationality
- Consular Notification and Access
- Interview of a Mexican Minor
- Mutual collaboration in cases of Mexican minors
- Ongoing communication between Consulate & CYFD
- Changes to CYFD rules and procedures
Definitions

- “Mexican national” means any person who was born in Mexico or elsewhere of at least one Mexican national parent, regardless of immigration status in the United States of America.

- “Mexican minor” means any person who is under the age of eighteen and is a Mexican national.
Consular Notification and Access

- **Notification**
  - Notify without delay using standardized form
  - If PS learns at a later time that a child is a Mexican national, forward this information to the Consulate without delay.

- **Interview of a Mexican Minor**
  - A consular officer has the right to interview the Mexican minor in CYFD custody.
Mutual Cooperation

- Location of family members
- Evidence and documentation (birth certificates, medical records, proof of Mexican citizenship etc.)
- Home studies
- Monitoring of placements
- Repatriation to Mexico
Mutual Cooperation

• Collaboration where a parent may have crossed the border with the intention of evading local authorities and laws involving child abuse

• Collaboration for Mexican parents whose children are born in US hospital or receive medical care in the US

• Collaboration on cases where Mexican national parents are residing in Mexico

• Joint participation in outreach activities: Mobile Consulates

• Assistance with immigration relief and documentation for SIJS
Mutual Cooperation

If you need to work with Mexican Consulate, use the standardized form for Requesting Assistance

☐ Check off correct box and write in additional info

☐ Fax to consulate and fax copy to central office

☐ Consulate will follow up

For offices with relationships with DIF that know which local DIF office to work with, can contact DIF directly, but must also fax the form to the Consulate and immigration liaison
Immigration Mandates leading to Legal Permanent Residency

- VAWA
- U Visa
- T Visa
- Special Immigrant Juvenile Status
Violence Against Women Act (VAWA)

- Assistance to women of physical, sexual or emotional abuse and to their children.
- Remedy to battered immigrant women whose spouses refused to file a petition for residency on her behalf.
- Allows for an immigrant child or woman abused by a U.S. citizen to self-petition on their own behalf to become a resident without the help of the abuser.
Other Visas

- **U Visa**: For Immigrants who are victims of serious crimes, including domestic violence.

- **T Visa**: For Victims of drug or sex trafficking.

- Contact the immigration liaison if your families have been victims of abuse, crime or trafficking.
Special Immigrant Juvenile Status

- An immigration status created by federal law that provides a basis for eligible foreign national children in PS custody to become lawful permanent residents of the United States.

- Lawful permanent residency creates a pathway for these children to become U.S. citizens in the future.
SIJS - Who is eligible?

For an undocumented foreign national child to be eligible:

- Reunification with one or both parents in not a viable option.
- It is not in the child’s best interest to return to his or her county of nationality or last habitual residence.
- The child must be under the jurisdiction of the court throughout the application process and status adjustment.

Also, child must be:

- In the U.S.
  - Under the age of 21
  - Unmarried
SIJS - Why apply?

For purposes of Adoption...

- Allows children who get LPR and are subsequently adopted by US citizens to obtain US citizenship relatively quickly.

- If an eligible child does not have LPR when he or she is adopted by US citizens, the adoptive family has to apply for LPR for the child. Then the child must have LPR for five (5) years before qualifying to become a US citizen.
SIJS - Why apply?

For purposes of youth emancipating...

- Crucial to obtain LPR before they emancipate from foster care.
- Youth qualify for U.S citizenship five (5) years after obtaining LPR.
- If youth emancipates from foster care without LPR, won’t qualify for any medical, educational, or public assistance and can’t legally work.
SIJS - New Procedure

- PSD Immigration Liaison is responsible for filing application and serves as the child’s representative.
- Workers are responsible for collecting key pieces of application and drafting forms.
- Use SIJS Application Guide and Instructions.
SIJS - How to Apply

Two applications are required:

I-360, Petition for SIJS
I-485, application for adjustment of status to LPR

If the child is 14 years of age or older, two additional forms to submit:

Form G-325A, Biographic information
I-765 Application for Employment Authorization Document (Optional)
Two other forms that all applicants must submit to USCIS:

- G-28 Appointment of Representative (filled out by PSD Immigration Liaison)
- I-693, USCIS Medical Exam Form (may be submitted after initial application)
SIJS - What’s the PS worker’s role?

- Determine eligibility and consult with CCA to request court order.
- Screen for risks to applying.
- Complete the I-360 and I-485 applications and obtain necessary additional documentation.
- Send completed packet to PS Immigration Liaison.
- Enter payment into FACTS.
- Attends medical exam, fingerprinting, and USCIS adjustment of status interview with child.
SIJS - Initial Packet of information

1. Brief case summary for cover letter
2. Form I-360, Petition for SIJS
3. Form I-485, Application for Adjustment of Status
4. Certified copy of the required District Court order (obtain from CCA)
5. Birth certificate or other proof of identity, with English translation
6. two color, passport-style photographs of the child
7. Form G-325A, Biographic Information, if the child is over age 14*
8. Form I-765 Application for Employment Authorization, if the child is over age 14 and wishes to work*
9. Passport, I-94, or other entry document, if available
SIJS - Know others’ roles

Role of PS Immigration Liaison:

- Communicates with PS worker throughout process
- Consults with immigration attorney if risk is identified
- Reviews documents and signs off on forms as the child’s representative.
- Obtains check for USCIS fees for application from the FACTS specialist.
- Sends the application to designated USCIS office for filing.
- Monitors application and informs worker of any additional information required by USCIS and of appointments.
- Attends USCIS adjustment of status interview as the child’s representative with the child and PS worker.
Role of Children’s Court Attorney:
- Files a motion and obtains the court order containing the required findings to submit with I-360 Petition

Role of the District Court:
- Issues a court order containing the required findings

Role of Child
- Signs application forms.
- Gets medical exam, passport photos and fingerprints taken.
- Participates in interview with USCIS official.
A child who has any of the following is considered a risk:

- history of arrests; admission of acts that constitutes crimes,
- adjudication as delinquent
- conviction of any adult crime
- a physical or mental condition that makes him a danger to self or others (suicidal, assaultive conduct, etc.)
- HIV/AIDS or any other significant communicable disease
SIJS - Special Considerations

AGING OUT

- The child must be under children’s court jurisdiction at the time that SIJS is applied for.

- As long as SIJS is applied for before the child’s 18th birthday, USCIS will process the application and a child can receive status after they turn 18.